UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	. Chapter 11
	. Case No. 24-10070 (BLS)
TERRAFORM LABS PTE. LTD.,	.
	.
	. Courtroom No. 1
	. 824 North King Street
Debtor.	. Wilmington, Delaware 19801
	.
	. Wednesday, August 7, 2024
. . . . .	. 11:00 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor:	Zachary Shapiro, Esquire RICHARDS, LAYTON & FINGER, P.A. One Rodney Square 920 North King Street Wilmington, Delaware 19801
	Ronit Berkovich, Esquire F. Gavin Andrews, Esquire Clifford Carlson, Esquire WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, New York 10153

(APPEARANCES CONTINUED)

Audio Operator:	Dana L. Moore, ECRO
Transcription Company:	Reliable The Nemours Building 1007 N. Orange Street, Suite 110 Wilmington, Delaware 19801 Telephone: (302)654-8080 Email: gmatthews@reliable-co.com

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APPEARANCES CONTINUED:

For the U.S. Trustee:	Linda Richenderfer, Esquire OFFICE OF THE UNITED STATES TRUSTEE 844 King Street, Suite 2207 Lockbox 35 Wilmington, Delaware 19801
For the Committee:	Darren Azman, Esquire MCDERMOTT WILL & EMERY One Vanderbilt Avenue New York, New York 10017
	Jeffrey Sabin, Esquire VENABLE LLP 151 West 42nd Street New York, New York 10036
For the SEC:	Therese Scheuer, Esquire UNITED STATES SECURITIRES AND EXCHANGE COMMISSION 100 F. Street, NE Washington, DC 20549
For the Singapore Claimants:	Erin Diers, Esquire HUGHES HUBBARD & REED LLP One Battery Park Plaza New York, New York 10004

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(Proceedings commence at 11:19 a.m.)

THE COURTROOM DEPUTY: All rise.

THE COURT: Please be seated. Good morning.

Ms. Berkovich, good morning. Good to see you. My apologies for any inconvenience from juggling the calendar a little bit and now we have juggled the floor. That wasn't my idea, but I appreciate your patience. Good morning, it's good to see you.

MS. BERKOVICH: Good morning, Your Honor. Nice to see you too and no problem at all. Actually, it was beneficial for us, as these things go.

For the record Ronit Berkovich from Weil, Gotshal & Manges for the two debtors now, Terraform Labs PTE Ltd., and Terraforms Labs Limited. I am joined in the courtroom by my partner, Clifford Carlson, who you will probably see more in this case as he's been very helpful in the last few months to us. We also have, from my firm, Gavin Andrews and Ismail Buffins. We have from the RLF firm Zach Shapiro and Matt Milana. Then we have our financial advisor, Michael Leto.

THE COURT: Very good.

MS. BERKOVICH: So, thank you for making time for us this morning. It's actually been a long time since we have been before the Court.

THE COURT: It has.

MS. BERKOVICH: It's hard to believe we were last

here in early to mid-March. Since that time, we have not had to come before the Court because we have been working very cooperatively with the primary constituents in this case and we have been able to reach consensual resolution on all matters that we were seeking relief on.

THE COURT: I will never fault a debtor for not meeting here.

MS. BERKOVICH: So, we do want to thank counsel for the committee from McDermott. We want to thank Mr. Uptegrove from the SEC, as well as the Office of the U.S. Trustee, Ms. Richenderfer and Ms. Leamy for her being so helpful for us. But it is good to be back in front of the Court and we have a short agenda, I think, for today. The agenda itself was filed on Monday at Docket 549.

THE COURT: I have it.

MS. BERKOVICH: There's two items on the agenda. The first one on the agenda is the motion to approve the stipulation with the Beltran claimants at Docket 344.

THE COURT: Right. I have seen that as well as the United States Trustees opposition to that or limited objection.

MS. BERKOVICH: Correct, Your Honor. If it's okay with the Court, we would like to do that last and start with the second item on the agenda which is the approval of the disclosure statement at Item 556. I believe that is

uncontested. As always, there is sort of last minute changes that parties have asked for, but I think we are good, but we will see what happens in the next hour or so.

Before we get to the agenda items, we do have a case update since it has been a while.

THE COURT: That would be great.

MS. BERKOVICH: If the Court could please give Mr. Milana access to the Zoom we could put it up for everybody. I think we can just --

THE COURT: We should be set. Thank you, Madam Court Reporter.

MS. BERKOVICH: If we could jump to slide 3. Would Your Honor like it on the screen or take a hard copy?

THE COURT: I will take a hard copy if you have got it.

MS. BERKOVICH: May I approach?

THE COURT: Of course. Thank you. Actually, this isn't bad. I normally want a hard copy because if it's on the screen I have no idea how long it is.

MS. BERKOVICH: It's not long and we can, I think, breeze through it. So, we can jump to slide 3. Since last March a lot has happened. First, we did have the trial, the jury trial, on the SEC action. That resulted in a verdict against the debtor and its co-founder and former CEO and shareholder, Mr. Kwon, on April 5th. Following that, we

entered into discussions with the SEC and the UCC, and we made substantial progress in the case, and accomplished a lot, I think.

So, number one, we reached a settlement with the SEC fully resolving the SEC's claims and leading to the Chapter 11 plan with meaningful creditor recoveries. I will discuss that shortly.

THE COURT: Okay.

MS. BERKOVICH: Secondly, we have filed the plan of liquidation which implements the SEC settlement and has a winddown of the debtors operations. We, of course, filed the disclosure statement and we are on path, subject to the end of this hearing, for a confirmation hearing on September 19th. We also, following the investigation of the affairs with our BVI subsidiary, TLL, we did restore that entity on the BVI register of companies. We filed that entity for Chapter 11 and we filed a recognition proceeding in the BVI.

Next slide, so the SEC settlement. I think what is important here is that there was a summary judgment ruling prepetition and when we filed, we were somewhat on the eve of the jury trial. After the jury verdict there was briefing. The SEC sought substantial damages leading the debtor to determine that a settlement with the SEC was in the best interest of the estate. Portions of the settlement required us to act prepetition and we did have a motion before the

Court about a month ago on certain winddown actions that the debtors sought and that was approved. The rest of the settlement is really incorporated into the Chapter 11 plan. It was approved by the District Court already, but we do need this Court's approval as well.

So, among the key agreements that the debtor agreed to, and now we're going to slide 5, we replaced the two non-independent members of the board who are company employees, with two new independent directors. One is a Singapore resident, Ben Fong (phonetic). It is required under Singapore law to have a Singapore resident director.

THE COURT: I am aware.

MS. BERKOVICH: The other director is former Bankruptcy Judge, Russell Nelms. So, those two individuals have been on the board over the last couple of months and they've added value in the case.

THE COURT: Very good.

MS. BERKOVICH: The debtor also agreed to wind down its business as quickly as reasonably possible and liquidate its assets in a value maximizing and cost-effective manner. Just to preview, we will have some motions maybe coming up along the way to effectuate that. That does involve converting certain digital assets including bitcoin to U.S. dollars and selling various other assets.

Maybe most importantly, for this process, we were

required to file a Chapter 11 plan of liquidation with the liquidating trust. The liquidating trustee, who is really going to be the plan administrator, will be selected by the creditors committee with the debtors consent and the SEC's consent. We negotiated the form of release with the SEC which will be limited with appropriate carveouts.

There are some very big benefits to the company coming out of the settlement. Mr. Kwon, who is the proprietor of Luna Foundation Guard, which is an entity set up in Singapore and holds significant sums of various cryptocurrency tokens, some of which were contributed by the debtor prepetition, he is the proprietor of LFG and he is required to transfer all crypto assets in LFG's name to the TFL estate for the benefit of creditors.

THE COURT: Okay.

MS. BERKOVICH: That process has been -- has encountered some hiccups. We have been cooperating with Mr. Kwon and the relevant parties and the SEC is aware and we are working very hard to get those assets into the estate. That is disclosed in the disclosure statement, so this is not new information but I did want to highlight that.

THE COURT: Right.

MS. BERKOVICH: We did set the amount of the SEC general unsecured claim. It's got different components, but the top number is an almost $4.5 billion claim. What is

beneficial for the estate is that that claim is deemed satisfied upon distributions to creditors. In other words, the SEC is not recovering directly under our plan. It is allowing creditors to recover what would have gone to the SEC. And we also agreed that the debtor would not receive a discharge under the plan which is consistent with a liquidating plan.

THE COURT: Sure.

MS. BERKOVICH: There is a few plan related milestones and we are on track. We did get the plan on file by June 30th and we have to use best efforts to confirm the plan by September 30th.

THE COURT: You're already on my calendar, right, for the 19th?

MS. BERKOVICH: We have time on the calendar, whether its official or otherwise, have reserved that date. I think we need entry of the order today to set that as the official confirmation hearing date. And we agreed the effective date would occur no later than October 31st.

That is the end of my section. If Your Honor doesn’t have any questions, I will turn it over to Mr. Andrews to walk through the rest of the update.

THE COURT: That would be great.

MS. BERKOVICH: Okay. Thank you.

THE COURT: Good morning.

MR. ANDREWS: Good morning, Your Honor. Gavin Andrews for the debtors.

Your Honor, just to follow on from Ronit's presentation, as Your Honor is aware, and as Ronit eluded to, the Court did order back in July -- the Court did authorize the order back in July steps for the debtors to take to comply with the consent and final judgment. It has very significantly allowed the debtors to undertake a number of key actions in furtherance of the SEC settlement. This included:

Converting substantially all of the debtors bitcoin to be at currency; liquidating certain of the debtors non-bitcoin digital assets in a manner not objectionable to the SEC; marketing the debtors non-digital assets such as proximity, that is the Portuguese wholly-owned subsidiary, and the debtors investments as well for so; as well as continue to operate of certain of the debtors applications to allow third parties to withdrawal, unwind, and/or stake their positions and redeem assets on the Terra blockchain; destroy or burn all tokens related to the Terra blockchain, these are all tokens that are in the debtors possession; and destroy, importantly, all of the private keys in the debtors possession to those wallets or blockchain addresses that hold those tokens; and then also direct the transfer of assets received from Mr. Kwon and/or LFG into a designated

segregated bank account or custodial account for the distribution under the Chapter 11 plan.

THE COURT: I understand.

MR. ANDREWS: So, following this order and following the consent, and as Ronit mentioned, the debtors have continued to undertake significant steps in order to winddown the operations. We, obviously, filed our plan on June 30th which I can highlight very shortly for Your Honor. We have, obviously, and why we're here today, subsequently filed the disclosure statement on July 3rd which my colleague, Cliff Carlson, will walk through with you.

All of those documents, Your Honor, we have worked cooperatively with the SEC and the creditors committee on the terms of these documents. And I understand we will be filing a disclosure statement which will include a letter of support from the creditors committee also.

THE COURT: I understand.

MR. ANDREWS: We have already touched on the changing of the board that happened back in June, but also, Your Honor, the sale process, which I mentioned before, is underway in respect to the proximity sale that --

THE COURT: That is contemplated under the debtor's plan and discussed in the disclosure statement, right?

MR. ANDREWS: Correct. It is, Your Honor.

THE COURT: I just have a question about mechanics

and I am not taking a position one way or the other, this is the disclosure statement and the update is actually really particularly helpful. This has been, from the Court's point of view, you know, blessedly quiet, but it is not a simple case. Is the sale process going to continue past confirmation?

MR. ANDREWS: There --

THE COURT: I would imagine it would. I mean, confirmation is just four or five weeks away, right?

MR. ANDREWS: Yes. I would say it likely would, Your Honor. There are two different sale processes. One is in respect to the venture investments and another one is proximity. The proximity sale is a bit further along. Of course, we will come back and seek Your Honor's approval for that sale. Then the venture investments may slip past confirmation. I mean, I can't say -- it's not as -- I would say it would go past confirmation, Your Honor.

THE COURT: Look, it's not a today issue and it may not be a significant consideration, but I don’t know that I have been asked to deal with what I would assume would be a full-blown 363 sale with free and clear protections and good faith findings. I assume that that is what we are talking about. I just want the debtor to, at least, be cognizant.

Again, it may not be an issue. There may be a mountain of case law that says that Courts can easily do this

if a plan contemplates it. I just don't recall having seen it. I just want to make sure that everybody is on the same page and that there is not a surprise in connection with, you know, confirmation, the effective date, and then a question of the Court's authority because post-confirmation authority is circumscribed a little bit more, but, again, I am at your pleasure on that.

I saw that in terms of the timing and I want to be clear when I hint you will know, but I am not hinting. I just have not seen this before and I think we need to be comfortable that the debtors timeline -- I don't have any issue with what you are proposing and the sooner a confirmation order is entered here I think the better, but I just don't want to necessarily get procedurally boxed in somehow. So, that is a you problem right now, but I at least wanted to raise it.

MR. ANDREWS: Understood loud and clear, Your Honor. We will take that back.

I will keep moving through our winddown checklist. So, we did mention before, and as Your Honor is aware TFL is now a debtor. Those proceedings, the recognition proceedings in the BBI, are currently pending and no order has been entered in those proceedings now that the BBI Court has a holiday during August. So, we are waiting for the Court to come back. So, that sounds nice.

Your Honor, in addition to the general case updates we do want to disclose something to the Court, an unfortunate event that occurred last week. On July 31st the Terra blockchain was the target of a malicious attack exploiting a cosmos chain vulnerability resulting in the minting of numerous tokens on the Terra network and subsequently the unauthorized withdrawal from the Terra network for approximately $5 million worth of assets.

These assets are owned by users of the Terra blockchain, not the debtors; however, the debtors Estro holdings, which is a particular type of token, was devalued as a result of the breach. As far as the mechanics and our communication post-breach, the debtors were alerted to the attack very shortly thereafter in the early hours of the morning in Singapore that the team immediately coordinated with the Terra blockchain, validated to respond to the attack and rectify the breach.

I am told, Your Honor, that within hours of the attack a software upgrade was released and validators on the Terra blockchain representing 67 percent of the voting powers had operated their (indiscernible) effectively preventing the recurrence of the attack. On that same morning, Your Honor, we did notify the U.S. Trustee, the SEC, and the creditors committee of the breach and we subsequently held calls with each of those parties, and to provide further details, to the

extent known and, of course, to field any questions to the extent we could. I am also advised, Your Honor, that the debtors alerted their stakeholders and creditors shortly after the breach by making posts on their various social media platforms and Terra specific platforms as well.

The perpetrator did leave a digital trail following the breach which a number of teams across the wider Terra ecosystem are attempting to track; however, at this current time there is no conclusive evidence as to the perpetrators identity, but the debtors continue to investigate the source of the attack. I sort of reminisce of Liam Neeson in Taken "We will find you." We're trying to track them down.

THE COURT: Okay.

MR. ANDREWS: The debtors are investigating how this attack was able to be carried out and actively reviewing TFL software and security systems to prevent this type of incident in the future, of course. The debtors are evaluating as to what extent this incident may result in claims against the estate.

I think it very important to point out, Your Honor, this breach does not impact the solicitation or confirmation timeline and, importantly, does not present any issues in respect to confirmation.

THE COURT: Very good. I appreciate the disclosure and I would hear from any of the parties that wish to be

heard in connection with this at the appropriate time. Absent a request for relief for action by this Court I will be guided by the parties going forward, but, again, I think it is appropriate and necessary to make prompt disclosures to the United States Trustee, the UCC and the SEC.

These cases have had -- this is not the first time that we have run into issues like this and I think it's part of the world that we live in, but I am also acutely aware of the tension of how broadly to communicate the issue of a hack or breach and my understanding is from other proceedings that I have very recently conducted that broad disclosure in the crypto world of a hack such as that can actually exacerbate the original injury.

So, again, I make no comment on the issues that you have described. I, again, very much appreciate the disclosure and the care with which it has been both presented to stakeholders and the Court. As I said, I will be guided by parties if there is further proceedings that would require the involvement of the Court. Okay.

MR. ANDREWS: Understood. Thank you.

So, finally, Your Honor, if you would like I can walk you through some of the key features of the plan.

THE COURT: I actually -- yeah, let's do that but do it from a high level.

MR. ANDREWS: Of course, Your Honor.

THE COURT: I have been through all the materials and, again, I appreciate very much getting the most recent submissions that came in yesterday and I have been through all of that, but given, again, how quiet the case has been, at least by vision of the docket, it probably makes sense for purposes of today's hearing to just walk through, again, at a high level what we are looking for.

MR. ANDREWS: Sounds good, Your Honor. Subsequent to that there also -- we also do have some amendments to the plan that we have been working with the creditors committee on. We intend to file these subsequent to the hearing, but I have got a hard copy if Your Honor would like and I can walk you through them at the end of that summary.

THE COURT: That would be great at the appropriate time.

MR. ANDREWS: Sounds good. Your Honor, from a very high level the plan provides for a liquidation of all the debtor's assets, as was mentioned, and distribution of the value to the debtor's creditors pursuant to the claims waterfall. On the effective date the debtors assets and liabilities will be transferred and invest in the winddown trust. There are still some discussions as to what this trust will look like. We are contemplating what is called a STAR Trust under the laws of the Cayman Islands; however, we reserve the right under the plan to change the form of that

trust pursuant to compensations with the creditors committee on the specifics.

The plan contemplates a plan administrator and it will be subject to the oversight of an advisory board which will be selected by the creditors committee in consultation with the debtors and not objectionable to the SEC also. The plan administrator has broad authority to do a number of things including control the winddown, control and effectuate the claims reconciliation process, prosecute all causes of action of the debtors, and direct the winddown trustee to make distributions pursuant to the plan.

THE COURT: Let's focus for a second, let's move to the next page, page 12, where we are talking about the mechanics of the crypto loss claims and the SEC claims. I think that is really the meat of the plan.

MR. ANDREWS: Sounds good. I think to put it simply, leaving general unsecured claims aside, who are also impaired in voting, to put it simply the crypto loss claims are claims asserted against the debtors arising from the debtors negative cryptocurrency. There is a lengthy definition there, but that is really what it means.

The plan administrator will establish a bar date and proof of claim process for holders of those claims to assert claims and determine the allowance of distribution on account of those claims. This deadline will be no later than

120 days after the effective date in respect of the bar date. The plan contemplates that the administrator will also file a motion seeking approval of a set of procedures in respect to the crypto loss claims which were defined in the plan as the crypto loss claim procedures. This will provide the process and procedures in which to determine whether a claim should be allowed or disallowed, and to the extent allowed the value of that claim.

THE COURT: Okay.

MR. ANDREWS: The plan also contemplates two other bar dates which I appreciate can be a little bit technical, but each -- 30 days after the effective date --

THE COURT: I understand the private wallet. Can you explain to me a little bit what a bridge wallet is?

MR. ANDREWS: A bridge wallet is a wallet in which people deposit -- and you're testing my crypto knowledge here, Your Honor, but my understand is a bridge wallet --

THE COURT: They ask me to ask these questions.

MR. ANDREWS: I think overall a bridge wallet, and we do have Mr. Leto from A&M here if you have any specific questions, but I understand it’s a wallet that allows a user to bridge tokens to another blockchain.

THE COURT: Okay.

MR. ANDREWS: That is how I understand it will actually work. And, again, this wallet is contemplated in

the winddown motion and order, but this is really to allow those claimants to come in take their assets before we shut it off, essentially.

THE COURT: And then turning to the SEC claim, which is allowed at almost $4.5 billion, that claim is going to be deemed satisfied if, essentially, the debtor performs under the plan and treats the customers. Is that right?

MR. ANDREWS: That is my understanding. Yes, Your Honor.

THE COURT: All right. I think I understand the plan. Can we go over our timeline for the disclosure statement.

MR. ANDREWS: Sure. Your Honor, if I may, before we got the disclosure statement do you want me to approach you and hand over the changes to the plan?

THE COURT: Yeah, that would be good. Thank you, Mr. Andrews.

MR. ANDREWS: So just very quickly, Your Honor, at a very high level the two key changes here, with respect to the releases, we removed, in consultation with the creditors committee, the schedule of retained -- of parties to be released. Then we also, again in consultation with the creditors committee, add some consent rights for the creditors committee with reasonable qualities in respect of the confirmation order and the plan supplement.

THE COURT: Okay. The rest of these are just change numbers till we get to, I think, page 28.

MR. ANDREWS: That's right, Your Honor. This is -- these two comments are really getting to the heart of providing incentives in respect to any contributing claimants. Then also just making clear as to what claims the plan administrator can acquire.

THE COURT: All right. Most of that seems technical and conforming. I understand.

MR. ANDREWS: Your Honor, unless you have any other further questions about the winddown process or the plan I will hand over to my colleague, Cliff Carlson, to run you through the disclosure statement.

THE COURT: Very good. Mr. Carlson, welcome.

MR. CARLSON: Good morning, Your Honor. Cliff Carlson for the debtors.

So, why don’t we move straight to the schedule if that is okay. We are -- I think we are all agreed with the parties on this timeline. Ms. Richenderfer may have comments to one thing here, but if I could hand up -- actually I think what you have here is good enough, but the one change that we made to the timeline at the request of the creditors committee was to bifurcate the plan supplement deadline such that the deadline for filing all of the documents except for the identity of the plan administrator or winddown trustee

and the advisory board, that piece will be September 5th. The rest of the plan supplement documents will be August 29th.

THE COURT: Okay. I understand.

MR. CARLSON: Otherwise, the form of order that we filed yesterday, the schedule that we proposed there, is unchanged.

THE COURT: Mr. Carlson, can I ask a question. Its nothing specific to this case. I know that Rule 3018 motion deadlines are typical in a disclosure statement order. Does the debtor intend or expect to file motions to -- file objections to claims pursuant to 3018?

MR. CARLSON: We do, Your Honor. We need to -- you know, the crypto bar date for preliminary voting purposes is coming up on August 21st for reviewing those on a rolling basis, but the short answer is we do intend to file some objections.

THE COURT: So, the only question I have, and again I leave this within your hands, is sometimes there is a little bit of time. I mean, obviously, the deadline is the 10t of September. Normally these issues get negotiated and worked out for purposes of, you know, voting, but I have just had experiences over the years where 3018 litigation actually got complicated because it was days before a confirmation hearing and parties wanted to brief it and there were plan

effecting issues.

So, again, I am fine with the timeline that you identified, but if this turns into litigation, you guys are very good about this, just let me know if there are emergency proceedings or hearings that we need to have in advance or in connection with confirmation, I just need to know what is coming down the pike. Okay.

MR. CARLSON: Of course, Your Honor. No promises, but we will try very hard and not have to litigate these issues in front of the Court.

THE COURT: That sounds fine. Thank you, Mr. Carlson.

MR. CARLSON: So, Your Honor, I'm happy to go through any other questions you have or other portions of the order that we had submitted.

THE COURT: No, I do not have questions. I have been through it. I actually went through it pretty carefully because I had heard, frankly, in terms of litigation or proceedings I had heard so little in the case and the case is, again, given its business and given its issues far from typical. So, I have been through the disclosure statement and I got, again, the blacklines that were helpful. So, I don’t have questions right now. I understand the schedule.

I think you mentioned Ms. Richenderfer may have an issue with the schedule. While we are talking about the

schedule why don't we talk about that and then I would hear from any other parties on any other issues.

MR. CARLSON: Sure. I will turn it over to -- I know she had a comment she wanted to make, but I think, otherwise, I'm not aware of any other comments. Oh, I'm sorry, I do want to make one statement into the record. While the SEC is supportive of entry of the order, they do want to reserve rights with respect to certain plan provisions that are ongoing.

THE COURT: I will hear from Ms. Scheuer at the appropriate time.

Ms. Richenderfer, good morning. Good to see you.

MS. RICHENDERFER: Good morning, Your Honor. Good to see you also in this new courtroom for you.

THE COURT: This thing is huge. You could play golf in here.

MS. RICHENDERFER: I have to say though, we do appreciate there being four tables instead of two.

THE COURT: I prefer the intimacy.

MS. RICHENDERFER: Your Honor, I think I'm a little at a disadvantage. Last week I was able to take a few days off while Ms. Leamy dealt with these issues and now this week, she's taking some time off while I deal with this hearing. So, the 14-day period for the plan supplement had been negotiated while she was handling this last week.

Now there have been certain changes, certain things that were in the plan supplement before have now been taken out and so I think the issue still remains. When you have a constituency like we have here and just like we have in FTX where you have an awful lot of foreign creditors, this is an unusual process for them, they need some time to look at things. Some of them don't speak English very well or speak it at all. We really do like to have the two-week period and that is why we asked for it.

So, we are having the two-week period on everything except for the identity of the trustee. So, while there could be a draft agreement in the 14-day plan supplement, it's not going to be specific possibly as to the amount of fees for the trustee because the trustee is not going to finally be determined until seven days before the objection deadline. Sometimes that can be an issue for creditors as to who the trustee is because this is a very vocal group of individuals.

THE COURT: As I see these deadlines though, the deadline to file a plan supplement, other then as to the identify of these individuals post-confirmation, is the 29th which is 20 days before plan confirmation, right?

MS. RICHENDERFER: Your Honor, I was always looking at it versus the date for the objection and for the voting.

THE COURT: Okay. Deadline to object, which is the

12th.

MS. RICHENDERFER: Yes, Your Honor.

THE COURT: So, that is your issue is you want -- you are concerned about the timeline to object. I understand the concern.

MS. RICHENDERFER: Yes. So, I know that -- I have been told that there needs to be some additional time in order to conduct the interviews. I know there are a good number of these crypto cases out there right now that are occupying the time of an awful lot of people who would be appropriate to fill these roles. I just don't know what is going to go on in this regard.

So, not objecting to it, just wanted to explain to the Court why we were so adamant that we wanted the 14-day period. I am hopeful that they can reach an agreement with a plan administrator or winddown trustee and that the identity can be sent out even prior to the seven-day deadline before the voting date. I just wanted to advise because what happens is my office, we are the ones that get the emails from the people who miss deadlines sometimes.

THE COURT: No, I understand. Let's do this, I am actually -- I am not going to require a change to it. I do understand the trustees concern in this respect. I think it is helpful to have a plan supplement filed as far in advance as you have directed. That has been, I know, a consistent

beef over the years of this telephone book, to the extent people remember what a telephone looked like, being filed on the eve of plan confirmation. So, I think this is an improvement.

With respect to the identity of the plan administrator and winddown trustee I had every confidence that the debtor would coordinate with you. If it's possible or practical to disclose that earlier then I am confident that they will and if they don't do so and you have concerns about whether or not there has been an adequate process here those rights are all reserved.

MS. RICHENDERFER: And I know, Your Honor, that while the person is to be chosen, as I understand it, by the committee, both the debtor and the SEC.

THE COURT: Then we get to see puffs of white smoke and all that.

MS. RICHENDERFER: Yes. Then the SEC and the debtor have rights to come.

THE COURT: Okay.

MS. RICHENDERFER: I don't necessarily need rights, just wait and see what they all agree upon.

THE COURT: There's going to be no shortage of cooks standing around this pot.

MS. RICHENDERFER: Yes. So, Your Honor, those are the comments that I had to pass on that issue and I will make

some other comments later on. Thank you.

THE COURT: I am satisfied that the trustees comments with respect to timing as the plan administrator issue in this plan supplement were couched more as a reservation of rights in an advisory or heads up to the Court and a helpful one. I don't believe that it is an objection and, again, until I hear from other folks the timeline that has been laid out by the debtor is certainly satisfactory to me and the Court has, I have checked now, actually set the hearing for 10 a.m. on the 19th of September. So, I think we should be all set there.

I think I would like to hear from the committee. Mr. Azman.

MR. AZMAN: Good morning, Your Honor. Darren Azman from McDermott for the committee. Its good to see you again. As Ms. Berkovich said, it's been a little while.

I thought it would be helpful to say a few words and give you an update on where the committee is at with this case if that is all right.

THE COURT: That would be great.

MR. AZMAN: So, Your Honor, I think as you now all, and as we all know from the verdict, this case revolves around a massive, massive fraud in the crypto world. It's a fraud that has caused billions of dollars in damages. Candidly, we won't really know the full extent of the damage

until those future crypto loss claims procedures are approved and the real crypto loss proofs of claim are filed, but we know that there is enormous damage that was caused here.

We also know that there are entities and individuals outside of the debtors who were responsible for some of the harm, if not all of it, that was caused here and that is subject to the ongoing investigation by the committee which has been well underway for some time now. So, from the outset of the case our goal has really been to move quickly to a post-confirmation vehicle to marshal assets and pursue those claims against third parties. That has really been our primary goal here.

If everything goes according to plan this will be one of the fastest crypto cases that gets in and out of bankruptcy. Importantly, this plan has some of the most narrow releases that I have seen and I think Your Honor has probably seen. We represent a lot of committees. I think the debtors and their independent directors, thankfully, recognize that this case is unique and we need to be able to preserve claims against parties that might otherwise typically get releases. Even the release of the debtors professionals, by the way, is narrow in that there are only four professionals of the debtors getting released as opposed to a much longer list of something like 75 professionals that have performed work for the debtors. Again, all of that is

going to be subject to an investigation.

We also have a mechanism in the plan, Your Honor, that allows crypto loss claimants to contribute direct claims that they may have against third parties that relate in some way here. That is super important and we have been very successful with those claims in other cases. And perhaps most importantly, as you have already heard, the committee has the right to select the plan administrator and control the winddown process. Of course, that was a critical component of the plan for the committee.

So, look, those are just a few of the important aspects of this plan that we negotiated and that is why the committee is fully supportive of the plan and for today's purposes of the disclosure statement and we, of course, encourage all creditors to vote to accept this plan.

THE COURT: And the committee is sending a letter with the plan.

MR. AZMAN: That is right, Your Honor.

THE COURT: Very good.

MR. AZMAN: I don’t have anything else, Your Honor, unless you have questions.

THE COURT: I do not have questions.

I would ask, Ms. Richenderfer, I did hear from you on the scheduling issues, did you have anything to add with respect to the debtors' request for approval of a disclosure

statement and solicitation process?

MS. RICHENDERFER: The only thing, Your Honor, is I do need to put a further reservation of rights on the record here. The first one has to do with the sale process, and Your Honor already took some of the wind out of my sails by making those observations. I don't know how that process is going to unfold here, I don't know if we're looking at a private sale, I don't know if we're going to have a bid procedures order because, to me --

THE COURT: But I do want to be really transparent here: I don't have a position on this. I just don't recall being asked this question and I can, shooting from the hip, think of a bunch of good reasons why it's not an issue, but I wouldn't presume that the concept of post-confirmation jurisdiction weighs in on this somehow.

And so my point was just that I didn't -- it's rare that I come up with something that people haven't thought of --

MS. RICHENDERFER: Yes.

THE COURT: -- and, obviously, you've thought of it and I'm sure the debtors have, but I have on occasion been pained to see us get to a particular point and then somebody says, just procedurally, this is something that may be an issue.

Again, I make no comment. I don't know the answer

to this and, again, I'm the last person to want to get in the way of moving the process forward. 1123 expressly contemplates that you can sell things through a plan. So I understand the point and the parties are, I think, appropriately focused on the issue.

MS. RICHENDERFER: And, Your Honor, I don't mean to suggest that we think there's anything for or against it. I don't know the answer either. So that was just the point, reserving our rights, and whatever the debtor decides to do, hopefully they'll be able to share some research with us and we can all feel comfortable with it.

And then the other point is, Your Honor, as you may have already seen in some of your cases or are about to see, after the Supreme Court's ruling in Purdue --

THE COURT: Did they rule?

MS. RICHENDERFER: They did, Your Honor.

(Laughter)

MS. RICHENDERFER: You can't turn on your computer without being invited to a seminar about it. There are certain things we just want to make sure and we need to take a very careful look at. And we know that there have been certain positions already expressed by Judges in our district here and some of those we may try to persuade otherwise, we'll wait and see, depending how Purdue marches on. And, you know, we've seen some rulings from Judges in other

jurisdictions that one would not have seen a month ago.

THE COURT: It's a hot topic.

MS. RICHENDERFER: It's a very hot topic. And so, Your Honor, we just want to make it clear that there were other items we raised during this process and we're satisfied that they are confirmation issues. We'll see if they can be resolved and to what, you know, extent they can be; otherwise, we may be having some discussion of those points come -- I'm looking at the date here --

THE COURT: September 19th.

MS. RICHENDERFER: -- September 19th.

THE COURT: That sounds fine. Those rights are reserved.

MS. RICHENDERFER: Okay. Thank you, Your Honor.

THE COURT: Can I hear from the United States -- from the Securities and Exchange Commission?

Ms. Scheuer, good to see you. Welcome back.

MS. SCHEUER: Thank you, Your Honor. Your Honor, for the record, Therese Scheuer for the U.S. Securities and Exchange Commission. With me by Zoom is William Uptegrove, also from the U.S. Securities and Exchange Commission.

Your Honor, as has been discussed, the SEC sued Terraform, alleging a years-long fraud that led to billions in devastating losses, including to retail investors in the United States. After the District Court granted partial

summary judgment to the SEC and a jury found Terraform and Mr. Kwon liable for violating the securities laws, including fraud, we engaged in settlement discussions which resulted in the consent and final judgment that were attached to the implementation steps motion filed at Docket Number 435.

Your Honor, as Ms. Berkovich and Mr. Andrews indicated, key terms of the consent and final judgment are that the SEC has an allowed general unsecured claim of almost $4.5 billion, which will be deemed satisfied by distributions to harmed investors and creditors in the bankruptcy case. Terraform is to wind down its business and file a plan of liquidation, and Mr. Kwon is to transfer at least $204 million in assets to Terraform's estate for distribution to harmed investors.

Your Honor, we're still reviewing certain of the plan provisions, including changes that the debtors filed yesterday afternoon, but the debtors have agreed that these issues are preserved to confirmation. We will continue to review the documents and raise any issues as appropriate.

Thank you, Your Honor.

THE COURT: Very good. Thank you, Ms. Scheuer.

All right, I would ask if anyone else wishes to be heard with respect to the debtors' request for approval of the disclosure statement and approval of solicitation procedures.

Mr. Sabin, good to see you. It's been a little while.

MR. SABIN: It's a pleasure, Your Honor. Thank you very much. I am relatively new to this case; I represent one of the representatives for a member of the committee. First and foremost, I want to thank Mr. Azman and everyone else he's working with for getting us here with the debtors on a consensual basis.

I want to highlight three things that are new for the record but are in the disclosure statement, and I think represent additional reasons for approval and one that's -- two things that are responsive to your question.

First, if you look at the amended plan, Section 5.4(b) and, in particular, 5.4(b)(v), it does contemplate that one of the duties and rights and powers of the plan administrator is to marshal, market for sale, and wind down, so that if indeed the answer to the question is the sale processes that are ongoing are not finished or are yet to start, the plan administrator under this process is to finish that. And having been involved in at least two or three cases in this court where we retained post-effective date jurisdiction for use of 363, you might note that under 5.4(b), although there is language in the first sentence that says without the need of court approval, unless otherwise indicated, is in a parenthetical in that section. So I'm

going to assume that the relevant parties here take full heed of your comments and if 363 is a tool that the plan administrator wants, it will be in the wind-down trust.

THE COURT: Very good.

MR. SABIN: The second thing I want to highlight is that as part of the plan supplement for August 29th is a wind-down budget and, although the committee processes leading to the identity of a plan administrator and identity of the advisory board, some of the concerns about the costs may very well be addressed in the wind-down budget by way of assumptions, and that would be available for everybody. So concerns that you did hear articulated, and rightfully so, from the U.S. Trustee I think are going to be allayed in part by portions of the wind-down budget.

Third and finally, Your Honor, there is an interesting mechanism in the plan that differentiates between two classes, pure general unsecured creditors and the crypto loss creditors. And the crypto loss creditors are to be the sole beneficiaries of certain assets pursuant to the SEC and debtor consent decree that Do Kwon has otherwise agreed to transfer over. As you heard alluded to, there have been some concerns and delays with transferring over those assets to the debtors, and I believe the disclosure statement has current -- most current numbers and current information about where that process stands, which is relevant to voting for

any of the creditors themselves.

For all those reasons, Your Honor, we do support and thank you and hope that the disclosure statement gets approved today, so we can see you again for confirmation on the 19th.

THE COURT: In just a few weeks.

MR. SABIN: Thank you.

THE COURT: Very good.

I would ask if anyone else wishes to be heard with respect to the request for approval of the disclosure statement.

(No verbal response)

THE COURT: Very well.

As counsel noted at the outset, this disclosure statement is being presented to the Court on essentially a consensual basis. There was a colloquy with the United States Trustee with regard to objection deadlines and filing deadlines, and the Court has dealt with that issue, but I don't think that that was interposed as an objection.

The Court also notes that all rights are reserved with respect to the request for confirmation that will occur in the middle of August, I believe -- or September, on the 19th of September.

With respect to the disclosure statement, again, counsel has ably provided the Court and parties with

blacklines that I identify the most recent changes, and the parties' submissions also do identify the elements of the plan and the disclosure statement, and how the disclosure statement itself satisfies the requirements of Bankruptcy Code Section 1125. I am prepared to find and would enter an order so providing that the disclosure statement contains information adequate to permit a hypothetical investor to make an informed decision to vote for or against the plan.

And, again, given the voluminous documentation here and the absence of objection, I'm not going to burden the record with extensive findings.

I also find that the proposed timeline, as well as the related materials, the ballots, the instructions, and the notices, are all compliant with applicable provisions of the Bankruptcy Code and the Rules, as well as established practice in this Court, and I would again be prepared to approve and authorize the debtor to commence a solicitation process consistent with that which has been described to me today, identified in terms of the calendar, and also laid out with particularity in what I believe will be the proposed form of order.

The disclosure statement is approved and I will look forward to seeing the parties on the morning of the 19th.

Are there any questions?

(No verbal response)

THE COURT: Very well. I'll look for the order to be uploaded when it's finalized.

Ms. Berkovich? Oh. Mr. Shapiro?

MR. SHAPIRO: Good morning, Your Honor. For the record, Zach Shapiro, Richards Layton & Finger, also appearing on behalf of the debtors today. I am presenting the other item on the agenda, that's the motion to approve a stipulation to consensually lift the stay in what is referred to in the motion as the representative action in Singapore. That was Docket Number 344, if I'm not mistaken. So I'll be, at least initially, very brief.

THE COURT: Okay.

MR. SHAPIRO: We filed the motion back in late May. The motion sought two aspects of stay relief, one typical, one not so typical. The first -- the typical part of the motion was stay relief to proceed with the litigation, Your Honor sees that, I think, all the time; second, the less typical part was stay relief to allow the claimants to collect on account of any final judgment or settlement from an escrow.

THE COURT: And the escrow is set up under the authority of the Singapore court, is that correct?

MR. SHAPIRO: That's correct, yes.

THE COURT: And so the idea is that money is

there, the Singapore -- this issue will get litigated in Singapore, and to the extent that a claim is liquidated, the proposal would be to permit the party, the prevailing party to apply its judgment against whatever is in the escrow. Do I follow that?

MR. SHAPIRO: That's correct.

THE COURT: Okay.

MR. SHAPIRO: So, if the judgment is less than the escrow, then we would get the money back; if it's more, then they would have a claim in the bankruptcy, it would be -- I think it would be a Class 5 crypto loss claim.

At the time we filed the motion, we -- and still, we thought it made sense for a few reasons. I think the first one is Singapore seems like the right court for that dispute, it's been there for -- pending there for quite some time, you know, pleadings have been filed, discovery has commenced. It's complex issues of Singapore law, things I think that Your Honor would perhaps avoid learning at this time in your judicial career.

(Laughter)

MR. SHAPIRO: Also --

THE COURT: Your instincts are excellent, Mr. Shapiro.

(Laughter)

MR. SHAPIRO: Also, even if the stay remained in

place, we think it would be difficult to enforce this stay there for obvious reasons; in fact, our recognition order carved that out expressly. And we also thought it -- we also were told, or at least we understood, that if we filed the motion here it would avoid an objection to the recognition proceeding in Singapore. Now it turned out it didn't, they ended up objecting anyway, but that was part of the reason why we entered into the stip.

And then, finally, perhaps going to the more unusual aspect of the motion, it was our understanding based off of discussions with our Singapore counsel that the claimants were in fact secured, so allowing them to collect on account of any judgment or settlement was in accordance with the absolute priority rule. So, no one was being prejudiced.

So that was why we filed the motion. That was, like as I mentioned back in late May, the UST initially had informed us of their issues. We had many discussions with Ms. Richenderfer over the last few months and, ultimately, I think she -- and, ultimately, she objected. And Ms. Richenderfer will not be shy to correct me, but I will say that I think her primary issue -- she may have other issues, but her primary issue is with respect to the, quote, you know, unusual aspect of the relief that we're seeking, that's the enforcement aspect, you know, the extra step that we're

going that Your Honor doesn't normally see.

And on that point -- again, this is where I'm going to be brief, again -- I think we stand by what we said in the motion. We think it's appropriate because the claimants are secured, but the one thing I would add -- and I think Your Honor saw this from the pleadings that were filed -- the claimants' counsel is really primarily going to be addressing that for Your Honor.

And so, for now, I think I'll sit down, and I'll turn the podium over to Ms. Richenderfer so she can present her objection.

THE COURT: I think that would be fine.

Ms. Richenderfer?

MS. RICHENDERFER: Thank you, Your Honor, Linda Richenderfer from the Office of the United States Trustee.

I think one of the first reactions I had when I saw this was I was a little bewildered because it's not the normal course in which we see people asking for stay relief. It was -- I'm used to seeing stipulations to resolve a motion for stay relief, but we didn't really have a motion for stay relief here. So we had a motion to approve an agreement that was already reached, and so we're starting a little bit behind the eight ball, I felt like. And in reading it, it's one thing, I think, for debtor to decide in its business judgment that something should go forward and the stay should

be lifted, but there was another piece of the puzzle, which was that the debtors were giving in on whether this was secured.

And I guess, you know, they're secured, I think, under the U.S. Bankruptcy Code and under the UCC, and as I have come to understand -- and, believe me, I am no expert whatsoever in Singapore law and this was, I think the stumbling block here -- that under Singapore law, which I now understand a lot of the commonwealth countries follow this process, including in Canada -- that once an action is filed the plaintiffs can essentially seek what's called a Mareva -- I'm probably saying that wrong -- injunction, which basically says to the company, you're frozen, you can't do anything anywhere in the world. And then, in order to lift that freezing injunction, you can go in and pay money into the court into an escrow fund.

And so, you know, I envision all the ways that under U.S. bankruptcy law, under the UCC, a party establishes that they have a security interest and this doesn't fit within those parameters; it might fit under Singapore law, but I don't see it fitting within the Bankruptcy Code.

THE COURT: Can I ask a question?

MS. RICHENDERFER: Yes, Your Honor.

THE COURT: Is there any significance to attribute to where we are procedurally today versus where we were when

the motion was filed?

When the motion was filed -- and I assume your view was similar to mine -- there was relatively little visibility into what was going on in the case. Obviously, there were proceedings that were described that were active in Singapore. This is, as Counsel noted, a significant piece of litigation that has been pending for a while over there, but now, at this point, we have a plan on file, a disclosure statement that contemplates this, an expectation of treatment for all creditors, not just this litigation creditor, is that -- does that impact how I would view this? Rather than sort of out of the blue the debtor says, we're going to sock $57 million away and, if they win over there, that's the end of it, and if they lose, some of it may show up, but, Judge, you don't have any look into this.

Look, I completely -- when I read your objection, I certainly understood -- and Mr. Shapiro, I think, has candidly acknowledged that this piece of it is unusual, but are we in a slightly different situation right now, maybe with a little more confidence about where we stand, given where we are procedurally in the case today versus when the motion was filed?

MS. RICHENDERFER: Your Honor, I think we are, and that was part of the discussions -- and I'm not going to go into details, of course, because these were settlement

discussions -- but discussions I had with both debtors, their Singapore counsel also, debtors' Singapore counsel, and also U.S. counsel for the -- I guess we call them the Beltran plaintiffs because the lead person is named Beltran -- and as I understand it, this is not a class action, this is a representative action, there's 377 people over there. I believe we're going to find that the crypto victims' claims pool is going to be extremely in excess of 377 people, but we'll wait and see when everything gets sent in.

Your Honor, a couple of things have happened. One is the debtors' schedules have been filed, they don't schedule this as a secured claim, it's not on CDIT. I have seen -- I didn't check for all 377, I checked a couple names and I found them on Schedule E/F, and like Mr. Beltran -- I think it's a Mr., I'm sorry if not -- they're listed as contingent un-liquidated disputed claims. And even though in the Singapore complaint there's attachments where amounts are attributed by count to different individuals, those amounts don't even make it onto E/F, they're just listed as undetermined, and that's the way the debtor has treated them.

And so this is an about-face -- not totally, but I understand that the debtor had other maybe issues in mind, but it doesn't meet with the way the debtor presented this case.

My second point is, Your Honor, that I don't --

from the perspective of the U.S. Trustee's Office, lifting the stay now to go to Singapore to litigate issues that one might say have already been determined under a settlement agreement with the SEC, on liability, I question -- and when I finish, Counsel for the UCC is going to step forward with a plan, an idea that he came up with that I think the debtors are in agreement with, I know I'm in agreement with, but I understand that the Beltran plaintiffs are not in agreement with -- because I don't understand why -- I'm told it's Singapore law that applies here and it's going to look at these claims differently, I don't know what that means, Your Honor, but I do know that the SEC has a $4 billion claim for damages caused by the actions of the debtor, and the actions that are listed in the complaint in Singapore echo the SEC's complaint.

And so then I'm thinking, well, then why aren't we just liquidating here in the U.S., because there's going to be a process to do that, and maybe the issue is access to this fund of money, but there's ways to deal with that in a settlement or even though the plan.

So maybe I'm going a little far afield here, Your Honor, but those were just some of my thoughts, the U.S. Trustee's thoughts about, okay, what's the most practical way of dealing with this scenario. And I think that -- like I said, committee counsel, I think, came up with a practical

solution, but the Beltran plaintiffs, as I understand it, have not agreed with that.

And I will mention, Your Honor, too, it's not like nothing has been going on in Singapore. Despite the fact that this Court has not yet granted stay relief, if I look at the fees, the fee applications from debtors' Singapore counsel, there have been things they've been forced to deal with in the Singapore matter, in the Singapore litigation. I mean, one of the things that happened was that the case was transferred to the Singapore International Commercial Court after this bankruptcy was filed, and there have been various filings that have occurred over in Singapore. I've been reading the Wong partnership fee applications. And so things have been going on over there despite the fact that there has been no stay relief granted yet by this Court.

I'm not here to, you know, seek damages or to chastise people, but I'm here to just observe that this is not proceeding in the normal way that it usually proceeds that stay relief matters come before this Court. And, again, I'm trying --

THE COURT: But don't we -- I mean, maybe as a principled matter, but as a practical matter there is a difference between dealing with stay relief in litigation that is pending in Missouri and litigation that is pending in Singapore, or Canada, for that matter.

MS. RICHENDERFER: I agree, Your Honor. I don't know to what extent, though -- I'm not faulting debtors' counsel for perhaps having to react to things as a defendant over there, I'm just saying there were things -- initiation of events that occurred over there before this Court has considered this issue. And it's clear, though, that the Beltran plaintiffs knew they needed to get stay relief, but we're here at a point when we have a plan and we have ways in which to deal with things and I just have not been able to bridge the gap between money in escrow to release a freezing order, basically, versus a security interest to be recognized under our Bankruptcy Code and U.S. law.

And I know there were some cases that were attached and some of them concerned bankruptcy, but those are bankruptcy in Singapore, as I read, I don't think that any of them concerned bankruptcy proceedings in the United States, and I don't think any of them were the same situation here. I think the first came came the closest, I guess the wife had instituted bankruptcy proceedings or something and they weren't recognized. This is certainly real bankruptcy proceedings moving forward in this case.

So, unfortunately, I think that puts the burden on the Court. It's -- I can understand why the Court may see fit to lift the stay, I'm just concerned about money being spent to defend claims in Singapore that seem to have been

resolved here in the U.S., and I think that whether or not that amount of money should be treated as a secured claim for people that brought claims under Singapore law is an issue for the Singapore court. I'm not suggesting that this Court order that the money be brought back into the estate, I'm just suggesting that at this point in time that there is -- it's premature for this Court --

THE COURT: I understand.

MS. RICHENDERFER: -- to issue a ruling on that because, as I understand it, liability may or may not be covered by the SEC rulings, the Beltran plaintiffs (indiscernible) it's not, but there's the amount of the damages too, the liquidation of the damages and, until that occurs and somebody has the right to receive funds, we don't know to what extent, and whether or not that amount is a fund only for them, so to speak, is an issue. And, again, I think that's under Singapore law.

THE COURT: Okay, I understand. Thank you.

Mr. Azman?

MR. AZMAN: Your Honor, Darren Azman from McDermott for the committee.

We have looked at the strengths and weaknesses of the various arguments, and before the hearing we were trying to find a way to bridge the gap and sort of bring this to a consensual resolution of some kind. I think what I would

suggest to the Court is that, to resolve the U.S. Trustee's issues, the Court should simply lift the stay to allow this claim to proceed to judgment and a liquidated amount over in Singapore. There's no way that should be heard here, that doesn't make any sense. But I think that the remaining piece of this, which is the priority of the claim, the plan actually contains provisions that would allow for a process and reserves the rights of parties to dispute whether or not the claim is actually secured.

And so I think that a good resolution to the U.S. Trustee's position here would be to bifurcate this, and allow the judgment to go forward and liquidate the claim amount. And the parties can argue later on about whether it's secured, whether that should be determined by this Court or the Singapore court, I suspect it probably will be decided under Singapore law, but I'm not sure that's a -- that's not an issue that I don't think you need to decide today. But that's what our suggestion would be for --

THE COURT: Very good. Thank you.

MR. AZMAN: Thank you, Your Honor.

THE COURT: Can I hear from the Singapore claimants, please?

Ms. Diers, welcome.

MS. DIERS: Good afternoon, Your Honor, Erin Diers with Hughes Hubbard & Reed for the Singapore claimants. With

me in the courtroom is Katie Good from Potter Anderson, and with me by phone, if they've made it, it's past midnight there, our Singapore counsel Mahesh Rei and Tammy Kor (ph) from Drew & Napier. I think someone is appearing on camera, so Mahesh is there.

Frankly, I'm a bit surprised that we're being offered consensual resolutions at this stage because I think, from our perspective, we reached a consensual resolution back in May, and we entered a stipulation in which the debtors and our claimants agreed that the Singapore action would be unaffected by the Chapter 11 proceeding, and we would continue in the Singapore court and be able to collect on the funds that are specifically escrowed for purposes of collection of a judgment. It was never in dispute. I think the reason that the debtors' motion didn't go into the factual or legal bases for the secured nature of the claim is because everyone agreed that it was secured.

In response to the U.S. Trustee's objection that we needed more, we provided more, and we provided the Singapore court orders that make it clear that this money was set aside in order to secure the judgment -- those were TFL's own words in their --

THE COURT: Let me ask a question. I have an objection and I'm being asked to do something that is not necessarily typical. I send people off all the time to go

litigate somewhere and, if you succeed, then you recover whatever you may recover, and if you don't succeed then so be it, and I've done it in cases that have had escrows or funds that have been set aside and segregated. Why do I need to do this second piece, to approve this second piece right now over an objection at this point?

MS. DIERS: I guess in part it's because no one has given me a clear answer on what it is that we would be litigating in the future, what the second part would be. Like I said, both the debtor and our claimants agree the claim is secured, we think that the legal and factual bases for that are very clear. And when we're told we should kick the can, we should do this another day, I don't know when that day is. There's a trial in Singapore starting in April of next year, we're being told that the plan administrator is not even going to be in existence until the effective date.

THE COURT: What does the plan -- does the plan deal with this claim at all?

MS. DIERS: It provides that they're a secured claim unless you decide they're not.

THE COURT: Won't we know the answer to that question in four weeks?

MS. DIERS: I don't think that the debtors intend to tee this up as part of their plan confirmation process.

THE COURT: The plan provides that it's a secured

claim; if the plan is confirmed, you have a secured claim.

MS. DIERS: The plan provides it's a secured claim unless the Bankruptcy Court decides otherwise. We would be happy I think if the plan was revised to say that we have a secured claim because we and the debtors agree on that point, but my understanding is that that's not what was negotiated with the other parties.

THE COURT: Okay, a couple things. The debtor has entered into a stipulation. So the debtor has agreed that that $57 million is not theirs and it's available for recovery, and I think the debtor has made that position and I assume the debtor is going to remain wedded to that position. I don't know if the committee is a party to that stipulation, I don't think that they are --

MS. DIERS: They're not a party to the stipulation. They did stand up in Singapore International Court and said they had no objections to the stipulation. I understand that they may be changing course now, which is one of the reasons we think it's important for --

THE COURT: Well, you're worried --

MS. DIERS: -- the benefit of our bargain --

THE COURT: -- about a bait-and-switch.

MS. DIERS: -- from May to be --

THE COURT: Yeah, you're worried about a bait-and-switch.

MS. DIERS: And Judge Peck, when he was deciding the recognition proceedings, he knew that we were not objecting on reliance on the fact that we had entered this stipulation, and he gave us great comfort by saying that it was a certainty that this would be entered and then it's pushed out repeatedly. And now we're here today and being told why don't we continue to kick the can and that's -- it's a hard thing for our claimants to hear because we don't think that's the benefit of our bargain.

THE COURT: I'd like to hear from the debtor with respect to the plan. I understand the bid and the ask on the stip, the issue -- I'm being asked to rule on something that I shouldn't necessarily have to rule on if the debtor confirms its plan and treats this as a secured claim, and I have no reason to believe that it isn't necessarily a secured claim. As a practical matter, I think it would be exceedingly difficult to get this $57 million out for general distribution, at least from what parties have told me. But I'm being asked to do something extraordinary, and I have a direct objection from the United States Trustee and a veiled objection from the committee, and so I'd like guidance on whether or not there's another way to skin this cat.

Mr. Shapiro?

MR. SHAPIRO: So, you know, the debtor is kind of in an awkward position. We signed the stipulation, what

we're asking Your Honor to approve today is a stipulation. So I think, ultimately, you're going to have to decide whether you're going to approve it or not, I can't change what I agreed to or what I didn't agree to it. So I just want to be very clear on that.

But as far as how the plan works, there's a separate class for what we call -- I think it's called Beltran secured claims, and if this Court ultimately determines that those claims are in fact secured -- that's not at confirmation, that may be as part of the claims process -- then their recovery is in that class.

THE COURT: So if I'm being asked today to approve the stipulation that says that those claims are secured, then doesn't that -- wouldn't somebody be collaterally estopped from arguing post-confirmation or objecting to these claims and saying they're not secured?

MR. SHAPIRO: Absolutely, you know, that -- you would be making that decision today. So the way the plan -- the plan wouldn't work right now as it's drafted, essentially, because you would be making the decision right now that they are in fact secured because the plan provides that you wouldn't have to make that later.

THE COURT: Okay. I want to take a short break until 1 o'clock, and I'd like the parties to confer. And I'm not accusing anybody of anything and -- I really am not, I

mean, $57 million is a significant sum of money, but the debtor many months ago agreed that it would agree and it achieved benefits, this wasn't just a gift to a litigation claimant, it managed to resolve what would likely be perhaps complicated, multi-jurisdictional litigation, et cetera.

I'm not necessarily satisfied that I have a sufficient record to make a determination finally today that these are secured claims. I certainly have a sufficient record to grant the stipulation, if I wish, and overrule the objection, but I'm a little troubled by a disconnect in the plan about the plan says that these will get potentially litigated, except that I'm being asked to dispose of that litigation as to any allowed claim or any judgment today. That's not typical, I think I'm missing something, and we're going to take a short break and you people will make me smart by 1 o'clock. All right?

We stand in recess.

(Recess taken at 12:21 p.m.)

(Proceedings resumed at 1:11 p.m.)

THE COURT: Please be seated.

Mr. Shapiro, good afternoon.

MR. SHAPIRO: Good afternoon. I think we have a resolution.

THE COURT: Okay.

MR. SHAPIRO: Actually, I know we do, subject to

Your Honor.

(Laughter)

MR. SHAPIRO: So what we would propose is the stipulation would be modified to allow the action to proceed, that would be, you know, we would submit it today or tomorrow, whenever Your Honor enters the order. That stipulation would then include a further stipulation by the debtor that we believe that the claimants are secured in the escrow, and so that would be *prima facie* valid, and then parties would have until August 28th to object to that stipulation, not unlike in a DIP order. And if there are objections, then that would be heard at -- they cannot be resolved --

THE COURT: In the context of confirmation?

MR. SHAPIRO: That would be heard in the context of confirmation. That does not necessitate -- perhaps anticipating your next question -- that does not necessitate changes to the plan because the change just says to the extent the Court determines that it's allowed, so that it would be would determine it's allowed as part of this process.

THE COURT: That sounds like an elegant resolution to me. I'd like to hear from Ms. Diers -- or Diers, I'm sorry. Good afternoon again.

MS. DIERS: Good afternoon. We agree with the

proposal that Mr. Shapiro has set out. We would just like to state on the record that the history of the stipulation is that it's been moved successively for each year, we're hopeful and we expect that the September 19th hearing date would stick.

THE COURT: Very good.

Can I hear from the committee, Mr. Azman?

MR. AZMAN: It's good for the committee, Your Honor. Thank you.

THE COURT: All right. Ms. Richenderfer, anything to add?

MS. RICHENDERFER: Not at this time, Your Honor. Perhaps on August 28th I'll be filing something, but until then nothing further, Your Honor.

THE COURT: That sounds fine.

All right, I would ask if anyone else wishes to be heard.

MR. AZMAN: Your Honor, just one clarification --

THE COURT: Can you get to the podium? Let's just make sure --

MR. AZMAN: Oh, yes.

THE COURT: -- let's just make sure we pick you up on the --

MR. AZMAN: Yes, Darren Azman, again, for the committee. The one clarification is the 28th would be the

date for parties to file anything, whether it's an objection to the stip or something else that they might want to tee up related to this, if that makes sense.

THE COURT: The stipulation is going to say whatever it says about what people will do by the 28th, I will leave that to the collective candle power in this room to figure out how to write that down. I'm not making any comment on what it is that you've agreed to. We have a deadline of the 28th. If there are issues that the Court needs to deal with, the Court will deal with that at confirmation.

MR. AZMAN: Thank you, Your Honor, perfect.

THE COURT: Okay. I think I understand the deal.

Mr. Shapiro, do I have it right?

MR. SHAPIRO: You do, but I want to clarify one thing I said. Mr. Carlson corrected me one time before, but I forgot. We are not stipulating to allowance, we're stipulating that they are secured. Obviously, allowance will be determined in Singapore. I just wanted to clarify that.

THE COURT: Yeah, no, that much I understood. I appreciate the clarification, but I -- okay.

I would be prepared to enter a stipulation consistent with Counsel's representations. Again, I think it resolves issues for purposes of today and puts us in a format that allows this issue to get figured out, if it needs to get

figured out, or hopefully satisfactorily resolved to everyone's satisfaction.

So I would look for that order to be submitted under certification. I know that I've approached the disclosure statement, I expect that's probably in the works as well, and I will go ahead and enter that order at your -- as soon as it's up, but I think you are on the clock for purposes of disclosure and solicitation. And, other than that, I think we'll look forward to seeing everyone on the 19th.

COUNSEL: Thank you, Your Honor.

THE COURT: All right, very well. With that, we are adjourned. Thank you, Counsel.

(Proceedings concluded at 1:14 p.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ Tracey J. Williams August 14, 2024

Tracey J. Williams, CET-914

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